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1980

# Utah Bank & Trust v. James H. Quinn and James H. Wuinn, Jr. : Appellants Addendum of Newly Found Cases

Utah Supreme Court

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Edward T. Wells & David K. Robinson; Attorneys for Respondents; Layne B. Forbes; Attorney for Appellant;

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Clerk, Supreme Court, Utah

IN THE SUPREME COURT  
OF THE STATE OF UTAH

UTAH BANK & TRUST,  
a Utah Corporation,

Plaintiff-Respondent,

APPELLANTS

ADDENDUM OF NEWLY FOUND CASES

vs.

Case No. 16788

JAMES H. QUINN and  
JAMES H. QUINN, Jr.,

Defendants-Appellants

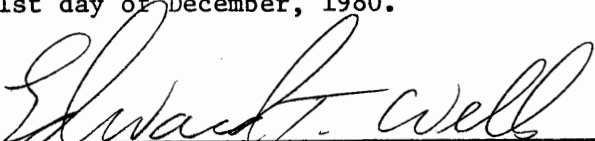
COMES NOW the Defendants-Appellants and submits the following newly found cases in support of the proposition that the failure of the Plaintiff-Respondent Bank to give notice of the sale of collateral to the Defendants-Appellants as required by Utah Code Annotated precludes the Plaintiff-Respondent from recovering a deficiency judgment from the Defendants-Appellants. Defendants-Appellants' Brief, pages 8 through 13.

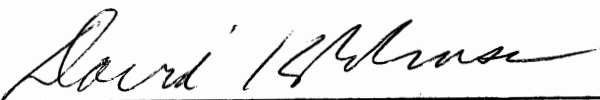
Subsequent to the argument to the Court in the above-entitled case, the November issue of the American Trial Lawyer's Association Law Reporter, Volume 23, No. 9, Page 406, sets forth the following recently decided cases which stand for the proposition that failure to strictly comply with the notice requirements of Section 9-504(3) precludes a creditor from recovering a deficiency judgment. The newly decided cases in support of this proposition are as follows: Wilmington Trust Company v. Conner, 415 A.2d 773 (Del. 1980); Gavin v. Washington Post Employees Federal Credit Union, 397 A.2d 968 (D.C. 1979);

Doughty v. Associates Commercial Corporation, 263 S.E. 2d 493 (Ga. App. 1979); Spillers v. First National Bank, 400 N.E. 2d 1057 (Ill. App. 1980); Northwest Bank and Trust Company v. Gutshall, 274 N.W. 2d 713 (Iowa 1979); Union Trust Company v. Hardy, 400 A.2d 384 (Md. 1979); Farmers State Bank v. Mobile Homes Unlimited, 593 P. 2d 734 (Mont. 1979); Citizens State Bank v. Sparks, 276 N.W. 2d 861 (Neb. 1979); Chittenden Trust Company v. Maryanski, 415 A. 2d 206 (Vt. 1980).

It should be noted that at page 8 of the Respondent's Reply Brief the Respondent cited cases indicating that Delaware, Illinois and Iowa were states following the so-called Arkansas Rule. The cases cited above, being the more recent, indicate that the states of Delaware, Illinois and Iowa have switched from the Arkansas Rule to the No Notice, No Deficiency Rule, leaving greater support to the proposition that the rule of No Notice, No Deficiency is the rule in the majority of states within the United States.

Respectfully submitted this 1st day of December, 1980.

  
Edward T. Wells

  
David K. Robinson

Attorneys for Defendants-Appellants

MAILING CERTIFICATE

I hereby certify that I deposited in the U.S. Mail, a copy of the foregoing Appellants Addendum of Newly Found Cases to the attorney for Plaintiff-Respondent, Layne B. Forbes, P. O. Box 331, Bountiful, Utah 84010, on the 1st day of December, 1980, postage prepaid.

  
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